

PLAN FOR THE RANDOM SELECTION
OF GRAND AND PETIT JURORS IN
THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
NORTH CAROLINA
2012-2013



Frank G. Johns
Clerk of Court

October 2011

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, as amended, (28 U.S.C. §1861 et seq.) The following Plan is hereby adopted by this court, subject to approval by a reviewing panel and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

APPLICABILITY OF THE PLAN

This Plan is applicable to the Asheville, Bryson City, Charlotte and Statesville Divisions of the Western District of North Carolina. The Shelby Division is considered part of the Asheville Division for the limited purpose of this Plan.

POLICY OF THE PLAN

- A. It is the purpose of this Plan to implement the policies of the United States declared in Title 28 U.S.C. Section 1861:
 - (1) that all litigants in Federal Courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the Court convenes;
 - (2) that all citizens shall have the opportunity to be considered for service on grand and petit juries in the District Courts of the United States, and
 - (3) that all citizens shall have an obligation to serve as jurors when summoned for that purpose.
- B. It is further the purpose of this Plan to implement the prohibition against discrimination contained in Title 28, U.S.C. Section 1862, which provides that no citizen shall be excluded from service as a grand or petit juror in the District Courts of the United States on account of race, color, religion, sex, national origin, or economic status.

MANAGEMENT OF THE JURY SELECTION PROCESS

The Clerk of this Court under the supervision of the Judges of this Court shall manage the jury selection process and maintain a separate master jury wheel for each of the respective divisions. For the purposes of this Plan, the term "Clerk" is meant to include the Clerk of this Court, any authorized deputy, and any other person authorized by the Court to assist the Clerk in the performance of functions under this Plan.

RANDOM SELECTION FROM VOTER LISTS

Voter registration lists represent a fair cross section of the community in the Western District of North Carolina. Accordingly, names of grand and petit jurors serving on or after the effective date of this Plan shall be selected at random from the voter registration lists of each county within the district. The most recent voter registration lists shall be the sole source of prospective jurors.

The random selection shall be accomplished by the following method and the Court shall set the number of names to be placed initially in the Master Jury Wheel for each division. The total number of registered voters is to be obtained from, and certified to, by the State Board of Elections, Raleigh, North Carolina, representing the most current registration statistics available. (See Attachment A) The total number of registered voters for each division shall be divided by the number of names to be placed initially in the Master Jury Wheel for that division. The resulting figure will represent the multiple selection from the voter registration list in each county of that division and will assure a proportionate representation from each county. The starting number for each division shall be selected by lot.

For example, the Charlotte Division is comprised of four counties, with a total of 870,728 registered voters. When the total registration for those counties is divided by 40,000 (the number of names to be placed initially in the Master Jury Wheel for that Division), the resulting multiple will be 22. The beginning number 7 was drawn by lot from the numbers 1 to 22 (see Attachment D), and using that number the 7th name is the first selected from the voter registration list and each 22nd name thereafter (e.g. 7, 29, 51, etc.).

The foregoing procedure was used with the following results for each division:

ASHEVILLE DIVISION - the starting number is 1 and that name shall be selected from the voter registration lists for the counties in that division for jury purposes, along with each 19th name thereafter. (See Attachment B).

BRYSON CITY DIVISION - the starting number is 3 and that name shall be selected from the voter registration lists for the counties in that division for jury purposes, along with each 4th name thereafter. (See Attachment C).

CHARLOTTE DIVISION - the starting number is 7 and that name shall be selected from the voter registration lists for the counties in that division for jury purposes, along with each 22nd name thereafter. (See Attachment D).

STATESVILLE DIVISION - the starting number is 3 and that name shall be selected from the voter registration lists for the counties in that division for jury purposes, along with each 15th name thereafter. (See Attachment E).

ELECTRONIC DATA PROCESSING METHODS FOR USE IN JURY ADMINISTRATION

At the Clerk's option, and after consultation with the Court through the adoption of this Plan, the selection of names from complete source list database in electronic media for the master jury wheel(s) may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the Clerk and after consultation with the Court through the adoption of this Plan, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel(s) for the purpose of determining qualification for jury service, and from any qualified wheel(s) or master wheel(s) for summoning persons to serve as grand or petit jurors.

Such random selections of names from the source list for inclusion in the master wheel(s) by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master wheel(s) in accordance with Title 28 U.S.C. Section 1863(b)(3). The selections of names from the source list, the master wheel(s), and any qualified wheel(s) must also insure that the mathematical odds of any single name being picked are substantially equal.

The Court finds that the general use of electronic data processing equipment methods in jury administration continue to be advantageous in selecting and copying names for the master jury wheel(s) from voter registration lists. The use of private service providers is hereby authorized to secure the names for the master jury wheel from voter registration lists in counties that either do not maintain such lists electronically or from which the court's information processing department needs assistance in converting the data to the proper file format.

MASTER JURY WHEELS

The Clerk shall maintain a master jury wheel for the divisions as they appear below. The counties consisting of the Shelby Division have been combined with the counties consisting of the Asheville Division for the purpose of filling the Asheville master jury wheel. The names of all persons randomly selected from the voter registration lists of the counties in the following divisions shall be placed in the master jury wheel for that division. The minimum number of names to be placed initially in these master jury wheels shall be as follows:

ASHEVILLE DIVISION -	30,000 names out of the 569,421 registered voters.
BRYSON CITY DIVISION -	25,000 names out of the 96,540 registered voters.
CHARLOTTE DIVISION -	50,000 names out of the 870,728 registered voters.
STATESVILLE DIVISION -	30,000 names out of the 435,738 registered voters.

In no event shall less than one-half of one percent of the total registered voters of each division be initially placed in the master jury wheel.

The Chief Judge may order additional names to be placed in the master jury wheel(s) from time to time as necessary.

The master jury wheels shall be emptied and refilled between January 1 and November 1 of the year following the Federal General Election and every two years thereafter.

ONE-STEP QUALIFICATION AND SUMMONING PROCEDURE

The Federal Courts Administration Act of 1992, Public Law 102-572, signed October 29, 1992, authorized District Courts to use a one-step qualification procedure in lieu of the two separate procedures. Therefore, pursuant to Title 29 U.S.C. Section 1878, and by approval of this Plan, jurors will be qualified and summoned in a single procedure. This change eliminates the qualified jury wheel(s) as a separate wheel(s).

The Clerk shall maintain a separate master wheel for each division as identified in this Plan, and place in such wheels the names of all persons randomly selected from the voter registration lists of the counties in the divisions. The Clerk shall insure that at all times at least three hundred (300) names are contained in each wheel. Pursuant to Title 28 U.S.C. Section 1864(a) the Clerk shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn. Names when drawn from the master wheel shall NOT be made public until the panel of jurors have been summoned and have appeared at the courthouse. The Chief Judge or designated judge(s) may order that the names be made public at an earlier date, or be kept confidential in a case, when the interests of justice so require. Names of prospective and sitting petit jurors shall not be disclosed to members of the bar, media or public outside open court, except upon order of the court. A request for disclosure of petit juror names to members of the bar, media or public must be made to the presiding judge.

Names of persons for grand or petit jury panels shall be drawn by the Clerk and/or his authorized representative at random from the divisional master wheel(s) at times directed by the Court. Such drawings will normally occur sixty (60) days prior to the date in which the jury panel is expected to commence its service. However, the above schedule may change at any time as the interests of justice may require. Pursuant to Title 28 U.S.C. Section 1866(a) the Clerk shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn. Names of persons for such panels drawn for the Asheville Division and Bryson City Division will be drawn from their respective master wheels. Names of persons for such panels drawn for the Statesville Division will be drawn from the Statesville Division master wheel. Names of persons for such panels drawn for the Charlotte Division will be drawn from the Charlotte Division master wheel. Grand jurors service in

the Asheville Division will be drawn equally from the Asheville and Bryson City Division master wheels. Grand jurors in the Charlotte Division will be drawn equally from the Charlotte and Statesville Division master wheels.

The Clerk shall draw the number of names of persons ordered by the Court and shall prepare a separate list of names of persons assigned to each grand and petit jury panel. The Clerk shall issue the one-step qualification form and summonses as directed in the order of the Court, and shall deliver them by personal service, by registered, certified or first-class mail. Upon request, the United States Marshal shall assist with the service of summonses. See Title 28 U.S.C. Section 1866.

Any person so summoned for jury service may be (1) excused or deferred by the Court or Clerk, upon a showing of undue hardship or extreme inconvenience, for such period as the Court or Clerk deems necessary, and, unless otherwise ordered by the Court, the names of such persons shall be returned to the divisional master wheel or reserve pool, or (2) excluded by the Court on the grounds that such person may be unable to render impartial jury service or that their service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the Court that their service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this subsection unless the judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with Title 28 U.S.C. Sections 1861 and 1862.

Once a juror has been selected and has served their entire period of service, their name shall not be returned to a master wheel. However, if a juror selected is not required to report for service, the name shall be returned to the division master wheel or reserve pool for future summoning by the Court.

Whenever a person is disqualified, excused, exempt, deferred, or excluded from jury service, the Clerk shall note in the jury management system database the specified reason thereof.

A running account is to be kept of the number of names in each divisional master wheel.

In any two-year period no person shall be required to (1) serve or attend court for prospective service as a petit juror for a total of more than thirty days, except when necessary to complete service on a particular case, or (2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

ASSIGNMENT TO PANELS

A written court order will direct the Clerk to assign from a drawing of names a specified number of persons to a petit jury panel. If a grand jury panel is to be drawn at the same time as a petit jury panel, the first specified number of names will constitute the grand jury panel and the second specified number of names will constitute the petit jury panel.

RANDOM METHOD OF REDUCING AND ENLARGING PANELS

The Clerk, with the approval of the presiding Judge, is authorized to reduce the size of a venire by a random method when it appears there are more jurors summoned than are necessary to dispose of the business of the Court. The jurors deferred as a result of a panel reduction or cancellation are periodically reinstated to the master jury wheel.

When it appears that there are insufficient jurors to dispose of the business of the Court, the Clerk, with the approval of the presiding Judge, is authorized to add additional jurors to the venire from the master wheel using the data processing system for pure randomized selection.

COMPLETION OF JUROR QUALIFICATION FORM

The Clerk as ordered by the Court, shall draw at random from the master jury wheel(s) the names of as many persons as may be required to summons jurors for a jury trial term. The Clerk shall prepare an alphabetical list of the names drawn. This shall not be disclosed to any person except as provided in Title 28 U.S.C. Section 1867 and Section 1868. The Clerk shall mail to every person whose name is drawn as a juror a qualification questionnaire and summons with such other letters as necessary to effect the administration of this Plan and to assist the jurors. The Clerk shall clearly communicate to the prospective jurors that the qualification questionnaire must be filled out and returned, duly signed, by mail or through the Court's internet website within ten days. The juror qualification questionnaire and summons shall be as provided by the Administrative Office of the United States Courts or as said forms are subsequently amended by

the appropriate authority. All letters and instructions may be amended by the Clerk to assure compliance with this Plan and as needed to assure the efficient administration of this Plan.

Any person who fails to return a juror qualification form may be summoned by the Clerk to appear and fill out such a form; provided that any person who returns an executed juror qualification form by mail, and who is subsequently summoned for service on a grand or petit jury panel, may be required by the Clerk to fill out another such form. Any person who fails to appear as directed, or who wilfully misrepresents a material fact on a juror qualification questionnaire, may be ordered by the Court to appear and show cause why he committed such act or acts of omission or commission. Penalties for acts of commissions and omissions are found in Title 28 U.S.C. Section 1864 for detailed information relative to completion of juror qualification form.

EXCUSE ON INDIVIDUAL REQUEST

The Court hereby finds that jury service by members of the following occupation classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act, and may be granted by the Clerk upon individual request:

- (1) Persons over 70 years of age;
- (2) Persons having active care and custody of a child or children under 10 years of age whose health and safety would be jeopardized by their absence for jury service;
- (3) Persons who are essential to the care of aged or infirm persons;
- (4) Persons who are volunteer safety personnel.
- (5) Persons who have served on jury duty with this court or a local court within a 2 year period prior to this summons date. Verification must be submitted by prospective juror.

The Clerk is authorized to grant an excuse or deferral to jurors in the above captioned classes or groups of persons.

EXEMPTION FROM JURY SERVICE

The District Court finds that exemption of the following groups of persons or occupational classes is in the interest of the public and would not be inconsistent with the Act, and accordingly members of such groups are exempt and therefore barred from jury service even if they indicate a desire to do so;

- (1) Members in active service of the Armed Forces of the United States defined in 10 U.S.C. Section 101(a)(4) as including only the Army, Navy, Air Force, Marine Corps, and Coast Guard;
- (2) Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession;
- (3) "Public Officers" - i.e., persons either elected to public office or directly appointed by a person elected to public office in the executive, legislative, or judicial branches of the Government of the United States or of any state, the District of Columbia, or such territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

DETERMINATION OF QUALIFICATIONS, EXCUSES AND EXEMPTIONS

The Chief Judge of the Western District of North Carolina, acting through the Clerk, the Jury Administrator and the Jury Clerks, on their initiative or upon recommendation of the clerk, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The Clerk shall enter such determination in the space provided in the jury management system database. If a person did not appear in response to a summons, such fact shall also be noted in the jury management system database.

In making such determination, the Chief Judge or the designees of this district shall deem any person qualified to serve on grand and petit juries in the district court unless he:

- (1) Is not a citizen of the United States, eighteen years old, who has resided a period of one year within the judicial district;

- (2) Is unable to read, write and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) Is unable to speak the English language;
- (4) Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service, or
- (5) Has a charge pending against them for the commission of, or has been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year and their civil rights have not been restored as provided by law.

The Clerk of Court or designee is authorized to grant temporary excuses to prospective jurors on the grounds of undue hardship or extreme inconvenience. Persons granted temporary excuses shall be reinstated into the master jury wheel or shall be re-summoned at the discretion of the Clerk or designee.

Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to appropriate election officials for verifying voter registration eligibility.

PENALTY FOR FAILURE TO APPEAR FOR JURY SUMMONS

Pursuant to Title 28 U.S.C. Section 1864(b) any person who fails to show good cause for noncompliance with the summons may be fined; imprisoned not more than three days; ordered to perform community service; or any combination thereof.

JUROR FEES

Pursuant to Title 28 U.S.C. Section 1871 grand and petit jurors shall be paid the fees and allowances by this subsection.

EMPLOYMENT PROTECTION

Pursuant to Title 28 U.S.C. Section 1875, no employer shall discharge, intimidate, threaten or coerce any employee by reason of the employee's federal jury service or scheduled attendance for such service. Any employer who violates the above prohibitions is subject to:

- (1) Liability for damages to the employee;
- (2) An injunction from further such violations and to provide appropriate relief including

the reinstatement of such employee; and

- (3) A civil penalty for each violation as to each employee and may be ordered to perform community service.

The District court shall have original jurisdiction of civil actions brought for the protection of jurors' employment rights.

An individual claiming that their employer has violated any of the provisions of paragraph one above, may make application to the district court in which such employer maintains a place of business; and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided in Title 18 U.S.C. Section 3006A.

NON-DISCLOSURE OF RECORDS

The contents of records or papers used by the Clerk or Deputy Clerk in connection with the jury selection process, including juror qualification questionnaires, shall not be disclosed to anyone other than Court personnel except as provided in Title 28 U.S.C. Section 1867(f) and in this Plan. Names of prospective and sitting petit jurors shall not be disclosed to members of the bar, media or public outside open court, except upon order of the court. A request for disclosure of petit juror names to members of the bar, media or public must be made to the presiding judge.

AUTHORITY AND DEFINITIONS

Reference Title 28 U.S.C. Sections 1861 to 1878, to provide improved judicial machinery for the selection of Federal juries, and for other purposes.

EFFECTIVE DATE

This Plan is to become effective within 90 days from the date of approval by the reviewing panel and not later than November 1, 2011.



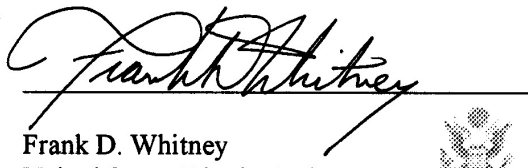
Robert J. Conrad, Jr.
Chief United States District Judge





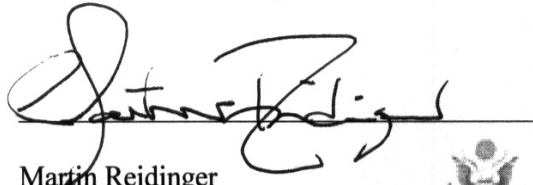
Richard L. Voorhees
United States District Judge





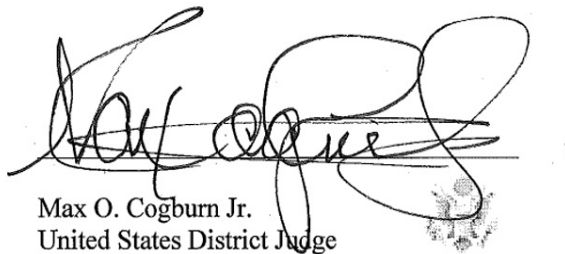
Frank D. Whitney
United States District Judge





Martin Reidinger
United States District Judge





Max O. Cogburn Jr.
United States District Judge





Graham C. Mullen
United States District Judge



APPROVED BY THE COURT THIS __29__ DAY OF OCTOBER 2011.

So recorded by



Frank G. Johns, Clerk
United States District Court



Total Voters by County

ALEXANDER (2) - **23535**
ALLEGHANY (3) - **7224**
ANSON (4) - **16688**
ASHE (5) - **18754**
AVERY (6) - **11605**
BUNCOMBE (11) - **174404**
BURKE (12) - **56666**
CALDWELL (14) - **52430**
CATAWBA (18) - **99334**
CHEROKEE (20) - **21027**
CLAY (22) - **8830**
CLEVELAND (23) - **60262**
GASTON (36) - **125561**
GRAHAM (38) - **6574**
HAYWOOD (44) - **41567**
HENDERSON (45) - **75844**
IREDELL (49) - **102934**
JACKSON (50) - **26075**
LINCOLN (55) - **49959**
MACON (56) - **24238**
MADISON (57) - **15975**
MCDOWELL (59) - **27696**
MECKLENBERG (60) - **603082**
MITCHELL (61) - **11380**
POLK (75) - **14501**
RUTHERFORD (81) - **41885**
SWAIN (87) - **9796**
TRANSYLVANIA (88) - **23078**
UNION (90) - **125397**
WATAUGA (95) - **40342**
WILKES (97) - **41226**
YANCEY (100) - **14558**

The above totals were obtained from electronic data provided by the North Carolina Board of Elections.



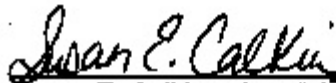
John Bain, Director of Special Projects

10/29/2011

Date

CERTIFICATE OF COMPLIANCE

I, Susan E. Calkins, Jury Administrator, for the United States District Court, Western District of North Carolina did draw by lot for the Asheville Division the number 1 from a container containing numbers in sequence from one through 19. From Registration Statistics, as of July 2011, provided by the State Board of Elections, Raleigh, North Carolina, it was determined that 569,421 registered voters were within the Asheville Division. Requiring 30,000 names to be inserted into the master wheel as directed by this Plan, every 19th name was determined to be drawn from the list of registered voters in each county within this division as defined by this Plan, beginning with the number 1.



Susan E. Calkins, Jury Administrator

Witnessed before me this 12th day of September, 2011.



Frank G. Johns, Clerk of Court

NUMBER OF REGISTERED VOTERS - ASHEVILLE DIVISION

From Voter Registration Statistics furnished by the State Board of Elections, Raleigh, North Carolina

<u>County</u>	<u>Number of Registered Voters</u>
Avery	11,605
Buncombe	174,404
Burke	50,666
Cleveland	60,262
Haywood	41,567
Henderson	76,844
McDowell	27,696
Madison	15,975
Mitchell	11,380
Polk	14,501
Rutherfordton	41,885
Transylvania	23,078
Yancey	14,558
Total	569,421

CERTIFICATE OF COMPLIANCE

I, Susan E. Calkins, Jury Administrator, for the United States District Court, Western District of North Carolina did draw by lot for the Bryson City Division the number 3 from a container containing numbers in sequence from one through 4. From Registration Statistics, as of July 2011, provided by the State Board of Elections, Raleigh, North Carolina, it was determined that 96,540 registered voters were within the Bryson City Division. Requiring 25,000 names to be inserted into the master wheel as directed by this Plan, every 4th name was determined to be drawn from the list of registered voters in each county within this division as defined by this Plan, beginning with the number 3.


 Susan E. Calkins, Jury Administrator

Witnessed before me this 12th day of September, 2011.


 Frank G. Johns, Clerk of Court

NUMBER OF REGISTERED VOTERS - BRYSON CITY DIVISION

From Voter Registration Statistics furnished by the State Board of Elections, Raleigh, North Carolina

<u>County</u>	<u>Number of Registered Voters</u>
Cherokee	21,027
Clay	8,830
Graham	6,674
Jackson	26,075
Macon	24,238
Swain	<u>9,796</u>
Total	96,540

CERTIFICATE OF COMPLIANCE

I, Susan E. Calkins, Jury Administrator for the United States District Court, Western District of North Carolina did draw by lot for the Charlotte Division the number 7 from a container containing numbers in sequence from one through 22. From Registration Statistics, as of July 2011, provided by the State Board of Elections, Raleigh, North Carolina, it was determined that 870,728 registered voters were within the Charlotte Division. Requiring 50,000 names to be inserted into the master wheel as directed by this Plan, every 22nd name was determined to be drawn from the list of registered voters in each county within this division as defined by this Plan, beginning with the number 7.


 Susan E. Calkins, Jury Administrator

Witnessed before me this 17th day of September, 2011.


 Frank S. Johns, Clerk of Court

NUMBER OF REGISTERED VOTERS - CHARLOTTE DIVISION

From Voter Registration Statistics furnished by the State Board of Elections, Raleigh, North Carolina

<u>County</u>	<u>Number of Registered Voters</u>
Anson	16,688
Gaston	125,561
Mecklenburg	603,082
Union	<u>125,397</u>
Total	870,728

CERTIFICATE OF COMPLIANCE

I, Susan E. Calkins, Jury Administrator for the United States District Court, Western District of North Carolina did draw by lot for the Statesville Division the number 3 from a container containing numbers in sequence from one through 15. From Registration Statistics, as of July 2011, provided by the State Board of Elections, Raleigh, North Carolina, it was determined that 435,738 registered voters were within the Statesville Division. Requiring 30,000 names to be inserted into the master wheel as directed by this Plan, every 15th name was determined to be drawn from the list of registered voters in each county within this division as defined by this Plan, beginning with the number 3.


 Susan E. Calkins, Jury Administrator

Witnessed before me this 12th day of September, 2011.


 Frank G. Johns, Clerk of Court

NUMBER OF REGISTERED VOTERS - STATESVILLE DIVISION

From Voter Registration Statistics furnished by the State Board of Elections, Raleigh, North Carolina

<u>County</u>	<u>Number of Registered Voters</u>
Alexander	23,535
Alleghany	7,224
Ashe	18,754
Caldwell	52,430
Catawba	99,334
Iredell	102,834
Lincoln	49,859
Watauga	40,342
Wilkes	41,226
Total	435,738